

BARBARA LAWALL  
PIMA COUNTY ATTORNEY  
CIVIL DIVISION

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**BARBARA LAWALL**  
**PIMA COUNTY ATTORNEY**  
**CIVIL DIVISION**  
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**UNITED STATES DISTRICT COURT**  
**DISTRICT OF ARIZONA**

Terrence Bressi,  
  
Plaintiff,  
  
vs.  
  
Pima County Board of Supervisors, et. al.,  
  
Defendants.

No. 18-CV-00186-DCB  
  
**ANSWER TO BRESSI’S FIRST  
AMENDED COMPLAINT (Doc. #10)**

Defendants Napier, Pima County Board of Supervisors, Dupnik, Nanos, Roher, and Kunze (collectively referred to as “Defendants” or “the Pima County Defendants”) hereby admit, deny, and affirmatively allege the following with respect to Plaintiff Terrence Bressi’s (“Bressi’s”) First Amended Complaint (“FAC”):

**JURISDICTION AND VENUE**

1. Admit only that jurisdiction in this Court is proper.
2. Admit only that jurisdiction in this Court is proper.
3. Admit in part and deny in part with respect to paragraph 3. Admit only that the Court has the ability to enter such relief if appropriate; affirmatively allege that injunctive and declaratory relief are not proper in this case.

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1 4. Deny paragraph 4 on the basis that plaintiff is only entitled to a reasonable  
2 attorney fee under 42 U.S.C. § 1988 if he is the prevailing party in this action.

3 5. Admit that venue is proper.

4 PARTIES

5 6. Are without information to form a belief as to the truth or falsity of paragraph 6  
6 and, therefore, deny the same.

7 7. Are without information to form a belief as to the truth or falsity of paragraph 7  
8 and, therefore, deny the same.

9 8. As to paragraph 8, affirmatively allege that Defendants Ryan Roher and Bryan  
10 Kunze are employees of the Pima County Sheriff; deny the remaining allegations.

11 9. Admit the allegations of paragraph 9.

12 10. Admit the allegations of paragraph 10.

13 11. As to paragraph 11, admit only that a Sheriff is a county officer; deny that the  
14 Board of Supervisors has any control over a Sheriff's execution of law-enforcement  
15 duties.

16 12. Admit the allegations of paragraph 12.

17 13. Paragraph 13 sets forth a legal conclusion for which an admission or denial is not  
18 required; to the extent that the Court determines an answer is required, Defendants deny  
19 these allegations.

20 14. Are without information to form a belief as to the truth or falsity of paragraph 14  
21 because no specific time-frames are given and, therefore, deny the same. Affirmatively  
22 allege that Sheriff Napier could not act under color of law during any time period he was  
23 not holding the elected office of Sheriff.

24 15. Paragraph 15 sets forth a legal conclusion and not a factual allegation for which an  
25 admission or denial is not required; to the extent that the Court determines an answer is  
26 required, Defendants deny these allegations.

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1 16. As to paragraph 16, admit only that Defendant Christopher Nanos served as the  
2 Sheriff of Pima County from August 2015 through December 31, 2016; deny Nanos  
3 served as Pima County Sheriff on January 1, 2017.

4 17. As to paragraph 17, admit only that Defendant Nanos held the office of Pima  
5 County Sheriff for a period of time; deny that the Board of Supervisors has any control  
6 over a Sheriff's execution of law-enforcement duties.

7 18. Paragraph 18 sets forth a legal conclusion for which an admission or denial is not  
8 required; to the extent that the Court determines an answer is required, Defendants deny  
9 these allegations.

10 19. Paragraph 19 sets forth a legal conclusion for which an admission or denial is not  
11 required; to the extent that the Court determines an answer is required, Defendants deny  
12 these allegations.

13 20. Admit the allegations of paragraph 20.

14 21. As to paragraph 21, admit only that Defendant Dupnik held the office of Pima  
15 County Sheriff for a period of time; deny that the Board of Supervisors has any control  
16 over a Sheriff's execution of law-enforcement duties.

17 22. Paragraph 22 sets forth a legal conclusion for which an admission or denial is not  
18 required; to the extent that the Court determines an answer is required, Defendants deny  
19 these allegations.

20 23. Paragraph 23 sets forth a legal conclusion and not a factual allegation for which an  
21 admission or denial is not required; to the extent that the Court determines an answer is  
22 required, Defendants deny these allegations.

23 24. The complaint does not indicate what time period for each defendant, thus, admit  
24 only that at *some* relevant times herein, Defendants Kunze, Roher, Napier, Nanos, and  
25 Dupnik were or may have been sworn peace officers who were certified by Arizona  
26 Peace Officer Standards and Training Board (AZPOST), but are without information to

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1 form a belief regarding the remaining allegations and, therefore, deny the remaining  
2 allegations of paragraph 24.

3 25. Deny the allegations of paragraph 25. Individual defendants other than those  
4 holding the position of Sheriff were employed by the Sheriff, not the PCSD. Those  
5 individuals holding the position of Pima County Sheriff were elected or appointed into  
6 that position.

7 26. Admit the allegations of paragraph 26 for any time period any individual  
8 defendant was so certified.

9 27. Paragraph 27 sets forth a legal conclusion for which an admission or denial is not  
10 required; to the extent that the Court determines an answer is required, Defendants deny  
11 these allegations.

12 28. Paragraph 28 sets forth a legal conclusion for which an admission or denial is not  
13 required; to the extent that the Court determines an answer is required, Defendants deny  
14 these allegations.

15 29. Admit paragraph 29.

16 30. Paragraph 30 sets forth a legal conclusion for which an admission or denial is not  
17 required; to the extent that the Court determines an answer is required, Defendants deny  
18 these allegations. Defendants further deny that the quoted language in paragraph 30 gives  
19 the Board of Supervisors supervisory authority over the Sheriff's statutorily-imposed  
20 law-enforcement duties.

21 31. Paragraph 31 sets forth a legal conclusion for which an admission or denial is not  
22 required; to the extent that the Court determines an answer is required, Defendants deny  
23 these allegations.

24 32. Paragraph 32 sets forth a legal conclusion for which an admission or denial is not  
25 required; to the extent that the Court determines an answer is required, Defendants deny  
26 these allegations.

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1 33. Deny the allegations of paragraph 33.

2 34. Paragraph 34 sets forth a legal conclusion for which an admission or denial is not  
3 required; to the extent that the Court determines an answer is required, Defendants deny  
4 these allegations.

5 35. Paragraph 34 sets forth a legal conclusion for which an admission or denial is not  
6 required; to the extent that the Court determines an answer is required, Defendants deny  
7 these allegations.

8 36. Upon information and belief, deny paragraph 36.

9 **FACTUAL ALLEGATIONS**

10 **Arizona State Route 86 Checkpoint**

11 37. Are without information to form a belief as to the truth or falsity of paragraph 37  
12 and, therefore, deny the same.

13 38. Upon information and belief, admit paragraph 38.

14 39. Are without information to form a belief as to the truth or falsity of paragraph 39  
15 and, therefore, deny the same.

16 40. Are without information to form a belief as to the truth or falsity of paragraph 40  
17 and, therefore, deny the same.

18 41. Are without information to form a belief as to the truth or falsity of paragraph 41  
19 and, therefore, deny the same.

20 42. Admit the allegations of paragraph 42.

21 43. Are without information to form a belief as to the truth or falsity of paragraph 43  
22 and, therefore, deny the same.

23 44. Paragraph 44 does not include a factual allegation for which an admission or  
24 denial is required; to the extent that the Court determines an answer is required,  
25 Defendants deny these allegations.

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1 45. Are without information to form a belief as to the truth or falsity of paragraph 45  
2 and, therefore, deny the same.

3 46. Are without information to form a belief as to the truth or falsity of paragraph 46  
4 and, therefore, deny the same.

5 47. Are without information to form a belief as to the truth or falsity of paragraph 47  
6 and, therefore, deny the same.

7 48. Are without information to form a belief as to the truth or falsity of paragraph 48  
8 and, therefore, deny the same.

9 49. Are without information to form a belief as to the truth or falsity of paragraph 49  
10 and, therefore, deny the same.

11 50. Are without information to form a belief as to the truth or falsity of paragraph 50  
12 and, therefore, deny the same.

13 51. Are without information to form a belief as to the truth or falsity of paragraph 51  
14 and, therefore, deny the same.

15 52. Are without information to form a belief as to the truth or falsity of paragraph 52  
16 and, therefore, deny the same.

17 53. Are without information to form a belief as to the truth or falsity of paragraph 53  
18 and, therefore, deny the same.

19 54. Are without information to form a belief as to the truth or falsity of paragraph 54  
20 and, therefore, deny the same.

21 55. Are without information to form a belief as to the truth or falsity of paragraph 55  
22 and, therefore, deny the same.

23 56. Are without information to form a belief as to the truth or falsity of paragraph 56  
24 and, therefore, deny the same.

25 57. Are without information to form a belief as to the truth or falsity of paragraph 57  
26 and, therefore, deny the same.

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1 58. Are without information to form a belief as to the truth or falsity of paragraph 58  
2 and, therefore, deny the same.

3 59. Paragraph 59 sets forth a legal conclusion for which an admission or denial is not  
4 required; to the extent that the Court determines an answer is required, Defendants deny  
5 these allegations.

6 Plaintiff's Interactions at the SR-86 Checkpoint

7 60. Are without information to form a belief as to the truth or falsity of paragraph 60  
8 and, therefore, deny the same.

9 61. Are without information to form a belief as to the truth or falsity of paragraph 61  
10 and, therefore, deny the same.

11 62. With respect to all County defendants, deny paragraph 62.

12 63. Deny paragraph 63 as to all County defendants.

13 64. Are without information to form a belief as to the truth or falsity of paragraph 64  
14 and, therefore, deny the same.

15 65. Are without information to form a belief as to the truth or falsity of paragraph 65  
16 and, therefore, deny the same.

17 66. Are without information to form a belief as to the truth or falsity of paragraph 66  
18 and, therefore, deny the same.

19 67. Admit as to Defendant Roher, deny as to Defendant Kunze, and are without  
20 sufficient information to admit or deny as to the remaining defendants with respect to  
21 paragraph 67 and, therefore, deny the same.

22 68. Are without information to form a belief as to the truth or falsity of paragraph 68  
23 and, therefore, deny the same.

24 69. Are without information to form a belief as to the truth or falsity of paragraph 69  
25 and, therefore, deny the same.

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1 70. Admit as to Defendant Roher, deny as to Defendant Kunze, and are without  
2 sufficient information to admit or deny as to the remaining defendants with respect to  
3 paragraph 70 and, therefore, deny the same.

4 71. Are without information to form a belief as to the truth or falsity of paragraph 71  
5 and, therefore, deny the same.

6 72. Are without information to form a belief as to the truth or falsity of paragraph 72  
7 and, therefore, deny the same.

8 73. Are without information to form a belief as to the truth or falsity of paragraph 73  
9 and, therefore, deny the same.

10 Operation Stonegarden in Pima County

11 74. Admit only that PCSD deputies have worked under Operation Stonegarden, deny  
12 the remaining allegations of paragraph 74.

13 75. Admit only that Operation Stonegarden has consisted of saturation patrols; deny  
14 the remaining allegations of paragraph 75.

15 76. Admit paragraph 76.

16 77. As to paragraph 77, admit only that PCSD deputies work overtime under  
17 Stonegarden.

18 78. Admit paragraph 78.

19 79. Are without information to form a belief as to the truth or falsity of paragraph 79  
20 and, therefore, denies the same.

21 80. Admit paragraph 80.

22 81. With respect to paragraph 81, admit only that deputies contact border patrol as to  
23 where their services are needed on any particular date and affirmatively allege that the  
24 process has changed over time.

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- 1 82. With respect to paragraph 82, admit only that deputies contact border patrol as to  
2 where their services are needed on any particular date and affirmatively allege that the  
3 process has changed over time.
- 4 83. Are without information to form a belief as to the truth or falsity of paragraph 83  
5 and, therefore, denies the same.
- 6 84. Are without information to form a belief as to the truth or falsity of paragraph 84  
7 and, therefore, deny the same.
- 8 85. Are without information to form a belief as to the truth or falsity of paragraph 85  
9 and, therefore, deny the same.
- 10 86. Are without information to form a belief as to the truth or falsity of paragraph 86  
11 and, therefore, deny the same.
- 12 87. Are without information to form a belief as to the truth or falsity of paragraph 87  
13 and, therefore, deny the same.
- 14 88. As to paragraph 88, deny that motorists were seized. Admit only that some  
15 deputies issued some citations at the checkpoint area which is a state highway. Are  
16 without information to form a belief as to the truth or falsity of the remaining allegations  
17 of paragraph 88 and, therefore, deny the same.
- 18 89. Are without information to form a belief as to the truth or falsity of paragraph 89  
19 and, therefore, deny the same.
- 20 90. As to paragraph 90, admit that Deputy Roher has issued state law traffic citations  
21 at the SR-86 checkpoint; deny the remaining allegations.
- 22 91. Are without information to form a belief as to the truth or falsity of paragraph 91  
23 and, therefore, deny the same.
- 24 92. Are without information to form a belief as to the truth or falsity of paragraph 92  
25 and, therefore, deny the same.
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- 1 93. Upon information and belief, Defendant Roher admits paragraph 93; the  
2 remaining defendants are without sufficient information to admit or deny this allegation  
3 and, therefore, deny the same.
- 4 94. Upon information and belief, Defendant Roher admits paragraph 94; the  
5 remaining defendants are without sufficient information to admit or deny this allegation  
6 and, therefore, deny the same.
- 7 95. Upon information and belief, Defendant Roher admits paragraph 95; the  
8 remaining defendants are without sufficient information to admit or deny this allegation  
9 and, therefore, deny the same.
- 10 96. Upon information and belief, Defendant Roher admits paragraph 96; the  
11 remaining defendants are without sufficient information to admit or deny this allegation  
12 and, therefore, deny the same.
- 13 97. Upon information and belief, Defendant Roher admits paragraph 97; the  
14 remaining defendants are without sufficient information to admit or deny this allegation  
15 and, therefore, deny the same.
- 16 98. Defendants Roher and Kunze admit paragraph 98; the remaining defendants do  
17 not have firsthand information of this fact and therefore, deny the same based on lack of  
18 information.
- 19 99. Are without information to form a belief as to the truth or falsity of paragraph 99  
20 and, therefore, deny the same.
- 21 100. Are without information to form a belief as to the truth or falsity of paragraph 100  
22 and, therefore, deny the same.
- 23 101. Upon information and belief, admit paragraph 101.
- 24 102. Upon information and belief, admit paragraph 102.
- 25 103. Upon information and belief, admit paragraph 103.
- 26 104. Upon information and belief, admit paragraph 104.

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1 105. Are without information to form a belief as to the truth or falsity of paragraph 105  
2 and, therefore, deny the same.

3 Training and Supervision of Pima County Sheriff's Deputies

4 106. Are without information to form a belief as to the truth or falsity of paragraph 106  
5 and, therefore, deny the same. Affirmatively allege that the department has written  
6 guidelines in place currently; affirmatively allege that standard law-enforcement training,  
7 protocols and policies applied as deputies were engaged in law-enforcement duties.

8 107. Are without information to form a belief as to the truth or falsity of paragraph 107  
9 and, therefore, deny the same. Affirmatively allege that the department has written  
10 guidelines in place currently; affirmatively allege that standard law-enforcement training,  
11 protocols and policies applied as deputies were engaged in law-enforcement duties.

12 108. Are without information to form a belief as to the truth or falsity of paragraph 108  
13 and, therefore, deny the same. Affirmatively allege that the department has written  
14 guidelines in place currently; affirmatively allege that standard law-enforcement training,  
15 protocols and policies applied as deputies were engaged in law-enforcement duties.

16 109. Are without information to form a belief as to the truth or falsity of paragraph 109  
17 and, therefore, deny the same. Affirmatively allege that the department has written  
18 guidelines in place currently; affirmatively allege that standard law-enforcement training,  
19 protocols and policies applied as deputies were engaged in law-enforcement duties.

20 110. Are without information to form a belief as to the truth or falsity of paragraph 110  
21 and, therefore, deny the same.

22 111. Are without information to form a belief as to the truth or falsity of paragraph 111  
23 and, therefore, deny the same.

24 112. Are without information to form a belief as to the truth or falsity of paragraph 112  
25 and, therefore, deny the same.

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1 113. Are without information to form a belief as to the truth or falsity of paragraph 113  
2 and, therefore, deny the same.

3 114. Are without information to form a belief as to the truth or falsity of paragraph 114  
4 and, therefore, deny the same. Affirmatively allege deputies assigned to Stonegarden  
5 were not engaged in border patrol duties.

6 115. Admit paragraph 115; affirmatively allege Deputy Roher had training for the law-  
7 enforcement duties he was exercising while working Stonegarden.

8 116. Are without information to form a belief as to the truth or falsity of paragraph 116  
9 and, therefore, deny the same. Affirmatively allege deputies assigned to Stonegarden  
10 were not engaged in border patrol duties, but normal law-enforcement duties for which  
11 they did have training.

12 117. Are without information to form a belief as to the truth or falsity of paragraph 117  
13 and, therefore, deny the same. Affirmatively allege Dupnik provided training for law-  
14 enforcement duties.

15 118. Are without information to form a belief as to the truth or falsity of paragraph 118  
16 and, therefore, deny the same. Affirmatively allege that Defendant Dupnik did have such  
17 items for general law enforcement duties.

18 119. Are without information to form a belief as to the truth or falsity of paragraph 119  
19 and, therefore, deny the same. Affirmatively allege that Defendant Dupnik did have such  
20 items for general law enforcement duties.

21 120. Are without information to form a belief as to the truth or falsity of paragraph 120  
22 and, therefore, deny the same. Affirmatively allege that Defendant Nanos did have such  
23 items for general law enforcement duties.

24 121. Are without information to form a belief as to the truth or falsity of paragraph 121  
25 and, therefore, deny the same. Affirmatively allege that Defendant Nanos did have such  
26 items for general law enforcement duties.

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- 1 122. Deny the allegations of paragraph 122.  
2 123. Deny the allegations of paragraph 123.  
3 124. Deny the allegations of paragraph 124.  
4 125. Deny the allegations of paragraph 125.  
5 126. Admit the allegations of paragraph 126.  
6 127. Admit the allegations of paragraph 127.  
7 128. Admit the allegations of paragraph 128.  
8 129. As to paragraph 129, are without sufficient information and belief to admit or deny  
9 as no date is provided; therefore, deny the same.  
10 130. As to paragraph 130, are without sufficient information and belief to admit or deny  
11 this allegation at this time; therefore, deny the same.  
12 131. As to paragraph 131, are without sufficient information and belief to admit or deny  
13 this allegation at this time; therefore, deny the same.  
14 132. Upon information and belief, admit paragraph 132.  
15 133. Upon information and belief, admit paragraph 133.  
16 134. Upon information and belief, admit paragraph 134.  
17 135. Are without information to form a belief as to the truth or falsity of paragraph 135  
18 at this time and, therefore, deny the same.  
19 136. Are without information to form a belief as to the truth or falsity of paragraph 136  
20 at this time and, therefore, deny the same.  
21 137. Are without information to form a belief as to the truth or falsity of paragraph 137  
22 at this time and, therefore, deny the same.  
23 138. Are without information to form a belief as to the truth or falsity of paragraph 138  
24 as no person is identified and, therefore, deny the same.

25 April 10, 2017 Incident at SR-86 Checkpoint  
26

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- 1 139. Admit only that there were 3 citations with respect to the allegations of paragraph  
2 139 (2013, 2014, and 2017), but deny that it was in collaboration with U.S. Border Patrol.  
3 140. Admit the allegations of paragraph 140.  
4 141. Admit the allegations of paragraph 141.  
5 142. Admit the allegations of paragraph 142.  
6 143. Are without information to form a belief as to the truth or falsity of paragraph 143  
7 and, therefore, deny the same.  
8 144. Upon information and belief, admits the allegations of paragraph 144.  
9 145. Are without information to form a belief as to the truth or falsity of paragraph 145  
10 and, therefore, deny the same.  
11 146. Are without information to form a belief as to the truth or falsity of paragraph 146  
12 and, therefore, deny the same.  
13 147. Are without information to form a belief as to the truth or falsity of paragraph 147  
14 and, therefore, deny the same.  
15 148. Are without information to form a belief as to the truth or falsity of paragraph 148  
16 and, therefore, deny the same.  
17 149. With respect to paragraph 149, admit only that at some point, Deputy Roher  
18 approached Plaintiff's vehicle while it was stopped.  
19 150. Defendant Roher admits paragraph 150.  
20 151. Paragraph 151 sets forth a legal conclusion for which an admission or denial is not  
21 required; to the extent that the Court determines an answer is required, Defendants deny  
22 these allegations.  
23 152. Defendant Roher admits paragraph 152. The remaining defendants are without  
24 sufficient information to form a belief as to the truth or falsity of the allegation and,  
25 therefore, deny the same.  
26

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1 153. As to paragraph 153, Defendant Roher admits only that may have said this; he has  
2 no independent recollection of the conversation. The remaining defendants are without  
3 sufficient information to form a belief as to the truth or falsity of the allegation and,  
4 therefore, deny the same.

5 154. Defendant Roher has no independent recollection of the conversation; thus he  
6 denies paragraph 154. The remaining defendants are without sufficient information to  
7 form a belief as to the truth or falsity of the allegation and, therefore, deny the same.

8 155. As to paragraph 155, Defendant Roher admits that at some point he told Bressi to  
9 move his car. The remaining defendants are without sufficient information to form a  
10 belief as to the truth or falsity of the allegation and, therefore, deny the same.

11 156. Are without information to form a belief as to the truth or falsity of paragraph 156  
12 and, therefore, deny the same.

13 157. Defendant Roher admits paragraph 157. The remaining defendants are without  
14 sufficient information to admit or deny and, therefore deny the same.

15 158. Defendant Roher admits that he ran toward his vehicle; is without sufficient  
16 information to form a belief as to the truth or falsity of what Plaintiff saw or did not see  
17 and when with respect to paragraph 158 and, therefore, deny the same. The remaining  
18 defendants are without sufficient information to admit or deny and, therefore deny the  
19 same.

20 159. Are without information to form a belief as to the truth or falsity of paragraph 159  
21 and, therefore, deny the same.

22 160. With respect to paragraph 160, admits only that Plaintiff stopped his vehicle at  
23 some point outside of the checkpoint.

24 161. With respect to paragraph 161, admits only that Defendant Roher drove his patrol  
25 vehicle to where Plaintiff stopped his vehicle at some point outside of the checkpoint.  
26

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1 162. Defendant Roher admits the allegations of paragraph 162. The remaining  
2 defendants are without sufficient information to admit or deny and, therefore deny the  
3 same.

4 163. Defendant Roher admit the allegations of paragraph 163. The remaining  
5 defendants are without sufficient information to admit or deny and, therefore deny the  
6 same.

7 164. Defendant Roher admit the allegations of paragraph 164. The remaining  
8 defendants are without sufficient information to admit or deny and, therefore deny the  
9 same.

10 165. Defendant Roher admits only that Plaintiff exited his vehicle at some point with  
11 respect to the allegations of paragraph 165, but denies the remaining allegations. The  
12 remaining defendants are without sufficient information to admit or deny and, therefore  
13 deny the same.

14 166. Defendant Roher admits the allegations of paragraph 166. The remaining  
15 defendants are without sufficient information to admit or deny and, therefore deny the  
16 same.

17 167. Defendant Roher admits the allegations of paragraph 167. The remaining  
18 defendants are without sufficient information to admit or deny and, therefore deny the  
19 same.

20 168. Defendant Roher deny paragraph 168. Roher placed Plaintiff in handcuffs because  
21 Roher felt he had probable cause to do so; denies it was because Bressi did not answer his  
22 questions. The remaining defendants are without sufficient information to admit or deny  
23 and, therefore deny the same.

24 169. Paragraph 169 sets forth a legal conclusion for which an admission or denial is not  
25 required; to the extent that the Court determines an answer is required, Defendants deny  
26 these allegations.



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1 170. Deputy Roher denies paragraph 170 because without sufficient information as to  
2 when the conversation occurred, but admits such a conversation may have occurred at  
3 some point. The remaining defendants are without sufficient information to admit or deny  
4 and, therefore deny the same.

5 171. As to paragraph 171, Defendant Roher admits only that a statement along those  
6 lines may have been made. The remaining defendants are without sufficient information  
7 to admit or deny and, therefore deny the same.

8 172. With respect to paragraph 172, Defendant Roher denies Plaintiff was delayed at  
9 the checkpoint. The remaining defendants are without information to form a belief as to  
10 the truth or falsity of paragraph 172 and, therefore, deny the same.

11 173. As to paragraph 173, Defendants Roher and Kunze admit that Plaintiff was in  
12 handcuffs when Kunze arrived; deny the remaining allegations regarding ratification  
13 because that is a legal conclusion for which an admission or denial is not required. To the  
14 extent the court determines an answer is required, it is denied. The remaining defendants  
15 are without information to form a belief as to the truth or falsity of paragraph 173 and,  
16 therefore, deny the same.

17 174. Defendant Roher admits paragraph 174, but affirmatively alleges he could not  
18 have identified Plaintiff on sight as of April 10, 2017. The remaining defendants are  
19 without information to form a belief as to the truth or falsity of paragraph 174 and,  
20 therefore, deny the same.

21 175. As to paragraph 175, deny the PCSD is a defendant, admit the remaining  
22 allegations, and affirmatively allege Defendants Nanos and Dupnik were not served with  
23 claims. Further affirmatively allege that any claims against Dupnik are barred by the  
24 statute of limitations.

25

26

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Count I  
VIOLATION OF FIRST AND FOURTEENTH AMENDMENT RIGHTS  
42 U.S.C. § 1983

176. Defendants re-allege and incorporate by reference their Answer to allegations 1-175 set forth herein.

177. Are without information to form a belief as to the truth or falsity of the first part of paragraph 177 and, therefore, deny the same. Additionally, Paragraph 177 sets forth a legal conclusion for which an admission or denial is not required; to the extent that the Court determines an answer is required, Defendants deny these allegations.

178. Defendants Roher and Kunze deny the allegations of paragraph 178. The remaining defendants are without sufficient information to either admit or deny and, therefore deny the same.

179. Defendants Roher and Kunze deny the allegations of paragraph 179. The remaining defendants are without sufficient information to either admit or deny and, therefore deny the same.

180. Defendant Roher only admits that he had such knowledge with respect to paragraph 180. The remaining defendants are without sufficient information to either admit or deny and, therefore deny the same.

181. Defendant Roher denies the allegations of paragraph 181. The remaining defendants are without sufficient information to either admit or deny and, therefore deny the same.

182. Paragraph 182 sets forth a legal conclusion for which an admission or denial is not required; to the extent that the Court determines an answer is required, Defendants deny these allegations.

183. Paragraph 183 sets forth a legal conclusion for which an admission or denial is not required; to the extent that the Court determines an answer is required, Defendants deny these allegations.

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1 184. Paragraph 184 sets forth a legal conclusion for which an admission or denial is not  
2 required; to the extent that the Court determines an answer is required, Defendants deny  
3 these allegations.

4 185. Paragraph 185 sets forth a legal conclusion for which an admission or denial is not  
5 required; to the extent that the Court determines an answer is required, Defendants deny  
6 these allegations.

7 186. Paragraph 186 sets forth a legal conclusion for which an admission or denial is not  
8 required; to the extent that the Court determines an answer is required, Defendants deny  
9 these allegations.

10 187. Paragraph 187 does not include a factual allegation for which an admission or  
11 denial is required; to the extent that the Court determines an answer is required,  
12 Defendants deny these allegations.

13 188. Paragraph 188 does not include a factual allegation for which an admission or  
14 denial is required; to the extent that the Court determines an answer is required,  
15 Defendants deny these allegations.

16 189. Paragraph 189 does not include a factual allegation for which an admission or  
17 denial is required; to the extent that the Court determines an answer is required,  
18 Defendants deny these allegations. Further allege that declaratory and injunctive relief are  
19 not appropriate.

Count II

VIOLATION OF FOURTH AND FOURTEENTH AMENDMENT RIGHTS  
PURSUANT TO *City of Indianapolis v. Edmond*, 531 U.S. 32 (2000)  
42 U.S.C. § 1983

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23 190. Defendants re-allege and incorporate by reference their Answer to allegations 1-  
24 189 set forth herein.

25 191. Paragraph 191 sets forth a legal conclusion for which an admission or denial is not  
26 required; to the extent that the Court determines an answer is required, Defendants deny  
these allegations.

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1 192. Paragraph 192 sets forth a legal conclusion for which an admission or denial is not  
2 required; to the extent that the Court determines an answer is required, Defendants deny  
3 these allegations.

4 193. Paragraph 193 sets forth a legal conclusion for which an admission or denial is not  
5 required; to the extent that the Court determines an answer is required, Defendants deny  
6 these allegations.

7 194. Are without information to form a belief as to the truth or falsity of paragraph 194  
8 and, therefore, deny the same.

9 195. Are without information to form a belief as to the truth or falsity of paragraph 195  
10 and, therefore, deny the same.

11 196. Paragraph 196 sets forth a legal conclusion for which an admission or denial is not  
12 required; to the extent that the Court determines an answer is required, Defendants deny  
13 these allegations.

14 197. Are without information to form a belief as to the truth or falsity of paragraph 197  
15 and, therefore, deny the same.

16 198. Are without information to form a belief as to the truth or falsity of paragraph 198  
17 and, therefore, deny the same. Defendant Roher affirmatively alleges he was not assigned  
18 to the checkpoint that day, but happened to be at the checkpoint during this incident.

19 199. Paragraph 199 sets forth a legal conclusion for which an admission or denial is not  
20 required; to the extent that the Court determines an answer is required, Defendants deny  
21 these allegations.

22 200. Paragraph 200 sets forth a legal conclusion for which an admission or denial is not  
23 required; to the extent that the Court determines an answer is required, Defendants deny  
24 these allegations.

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1 201. Paragraph 201 sets forth a legal conclusion for which an admission or denial is not  
2 required; to the extent that the Court determines an answer is required, Defendants deny  
3 these allegations.

4 202. Paragraph 202 sets forth a legal conclusion for which an admission or denial is not  
5 required; to the extent that the Court determines an answer is required, Defendants deny  
6 these allegations.

7 203. Paragraph 203 sets forth a legal conclusion for which an admission or denial is not  
8 required; to the extent that the Court determines an answer is required, Defendants deny  
9 these allegations. Affirmatively alleges declaratory and injunctive relief are not  
10 appropriate.

11 204. Paragraph 204 sets forth a legal conclusion for which an admission or denial is not  
12 required; to the extent that the Court determines an answer is required, Defendants deny  
13 these allegations.

14 Count III  
VIOLATION OF FOURTH AND FOURTEENTH AMENDMENT  
RIGHTS FOR ARREST ABSENT PROBABLE CAUSE  
15 42 U.S.C. § 1983

16 205. Defendants re-allege and incorporate by reference their Answer to allegations 1-  
17 204 set forth herein.

18 206. Paragraph 206 sets forth a legal conclusion for which an admission or denial is not  
19 required; to the extent that the Court determines an answer is required, Defendants deny  
20 these allegations.

21 207. With respect to paragraph 207, Defendant Roher admits he asked Plaintiff to move  
22 to a secondary inspection area to keep traffic on SR-86 flowing; he denies the remaining  
23 allegations. The remaining Defendants further deny because it sets forth a legal  
24 conclusion for which an admission or denial is not required and because they are without  
25 information to admit or deny.

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1 208. Are without information to form a belief as to the truth or falsity of paragraph 208  
2 and, therefore, deny the same.

3 209. Defendant Roher denies the allegations of paragraph 209. The remaining  
4 defendants are without sufficient information to either admit or deny and, therefore deny  
5 the same.

6 210. With respect to paragraph 210, Defendant Roher admits that he placed Plaintiff in  
7 handcuffs and cited him for violating A.R.S § 13-2906, but denies the remaining  
8 allegations. The remaining defendants are without sufficient information to either admit  
9 or deny and, therefore deny the same.

10 211. Paragraph 211 sets forth a legal conclusion for which an admission or denial is not  
11 required; to the extent that the Court determines an answer is required, Defendants deny  
12 these allegations. Defendant Kunze denies this allegation and affirmatively alleges that  
13 Plaintiff requested a supervisor respond to the scene.

14 212. Paragraph 212 sets forth a legal conclusion for which an admission or denial is not  
15 required; to the extent that the Court determines an answer is required, Defendants deny  
16 these allegations.

17 213. Paragraph 213 sets forth a legal conclusion for which an admission or denial is not  
18 required; to the extent that the Court determines an answer is required, Defendants deny  
19 these allegations.

20 214. Paragraph 214 sets forth a legal conclusion for which an admission or denial is not  
21 required; to the extent that the Court determines an answer is required, Defendants deny  
22 these allegations. Defendants affirmatively allege that neither injunctive nor declaratory  
23 relief are appropriate.

24 215. Paragraph 215 sets forth a legal conclusion for which an admission or denial is not  
25 required; to the extent that the Court determines an answer is required, Defendants deny  
26 these allegations.

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Count IV  
VIOLATION OF 42 U.S.C. § 1983, PURSUANT TO MONELL, AS  
AGAINST DEFENDANT NAPIER, IN HIS OFFICIAL CAPACITY

216. Defendants re-allege and incorporate by reference their Answer to allegations 1-215 set forth herein.

217. Paragraph 217 sets forth a legal conclusion for which an admission or denial is not required; to the extent that the Court determines an answer is required, Defendants deny these allegations.

218. Deny paragraph 218; further deny on the basis that this paragraph sets forth a legal conclusion for which an admission or denial is not required.

219. Deny paragraph 219; further deny on the basis that this paragraph sets forth a legal conclusion for which an admission or denial is not required.

220. Deny paragraph 220; further deny on the basis that this paragraph sets forth a legal conclusion for which an admission or denial is not required.

221. Deny paragraph 221; further deny on the basis that this paragraph sets forth a legal conclusion for which an admission or denial is not required.

Count V  
VIOLATION OF 42 U.S.C. § 1983, FAILURE TO TRAIN, AS TO  
DEFENDANT NAPIER, IN HIS INDIVIDUAL CAPACITY AND AS TO  
DEFENDANTS DUPNIK, NANOS, KUNZE, DOE DEFENDANTS 1-20,  
AND DEFENDANT PIMA COUNTY BOARD OF SUPERVISORS

222. Defendants re-allege and incorporate by reference their Answer to allegations 1-221 set forth herein.

223. Deny the allegations of paragraph 223.

224. Deny the allegations of paragraph 224.

225. Deny the allegations of paragraph 225.

226. Deny the allegations of paragraph 226.

227. Deny the allegations of paragraph 227.

228. Deny the allegations of paragraph 228.

229. Deny the allegations of paragraph 229.

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230. Deny the allegations of paragraph 230.

Count VI

VIOLATION OF 42 U.S.C. § 1983, FAILURE TO SUPERVISE, AS TO  
DEFENDANT NAPIER, IN HIS INDIVIDUAL CAPACITY, AND AS TO  
DEFENDANTS DUPNIK, NANOS, KUNZE, DOE DEFENDANTS 1-20,  
AND DEFENDANT PIMA COUNTY BOARD OF SUPERVISORS

231. Defendants re-allege and incorporate by reference their Answer to allegations 1-230 set forth herein.

232. Paragraph 232 sets forth a legal conclusion for which an admission or denial is not required; to the extent that the Court determines an answer is required, Defendants deny these allegations.

233. Deny the allegations of paragraph 233.

234. Deny the allegations of paragraph 234.

235. Deny the allegations of paragraph 235.

236. Deny the allegations of paragraph 236.

237. Deny the allegations of paragraph 237.

238. Deny the allegations of paragraph 238.

239. Deny the allegations of paragraph 239.

240. Deny the allegations of paragraph 240.

241. Deny the allegations of paragraph 241.

Count VII

FALSE IMPRISONMENT AS AGAINST  
DEFENDANTS ROHER AND KUNZE

242. Defendants re-allege and incorporate by reference their Answer to allegations 1-241 set forth herein.

243. Paragraph 243 sets forth a legal conclusion for which an admission or denial is not required; to the extent that the Court determines an answer is required, Defendants deny these allegations. Defendant Roher expressly denies he falsely imprisoned Plaintiff.



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1 244. Paragraph 244 sets forth a statement of law for which an admission or denial is not  
2 required; to the extent that the Court determines an answer is required, Defendants deny  
3 these allegations.

4 245. Defendant Roher admits only that he intentionally handcuffed Plaintiff. The  
5 remaining Defendants are without information to form a belief as to the truth or falsity of  
6 paragraph 245 and, therefore, deny the same.

7 246. Paragraph 246 sets forth a legal conclusion for which an admission or denial is not  
8 required; to the extent that the Court determines an answer is required, Defendants deny  
9 these allegations. Defendant Roher denies he lacked probable cause for the arrest.

10 247. Are without information to form a belief as to the truth or falsity of paragraph 247  
11 and, therefore, deny the same.

12 248. Deny the allegations of paragraph 248.

13 **AFFIRMATIVE DEFENSES**

- 14 1. All allegations not specifically admitted are denied.
- 15 2. Defendants affirmatively allege the FAC fails to state a claim for which relief may  
16 be granted.
- 17 3. Defendants assert Qualified Immunity on behalf of all individually-named  
18 defendants.
- 19 4. Defendants assert the existence of probable cause and reasonable suspicion.
- 20 5. Statute of Limitations with respect to all claims against Defendant Dupnik.
- 21 6. Statute of Limitations with respect to any and all claims against Defendant Nanos  
22 that arise out of conduct that occurred prior to April 10, 2016.
- 23 7. Statute of Limitations with respect to any conduct complained of about any and all  
24 other Defendants that occurred prior to the applicable statute of limitations.
- 25 8. Possible statute of limitations with respect to the state-law claim against Roher and  
26 Kunze if the state-law claim if found not to relate back.

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9. Defendants reserve the right to amend their Answer to include any additional affirmative defenses that may be revealed through disclosure and discovery.

WHEREFORE, the Pima County Defendants request the following relief in their favor and against Plaintiff Terrence Bressi:

- A. That Plaintiff's FAC be dismissed, with prejudice;
- B. That Plaintiff taking nothing by his FAC;
- C. That the Court award Defendants their costs and fees incurred in defending this action, including under Rule 11, Fed. R. Civ. P., and/or 42 U.S.C. § 1988 if appropriate.
- D. Other such further relief as the Court may deem just and proper.

DATED August 31, 2018.

BARBARA LAWALL  
PIMA COUNTY ATTORNEY

By /s/ Nancy J. Davis  
Nancy J. Davis  
Deputy County Attorney

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**CERTIFICATE OF SERVICE**

I hereby certify that on August 31, 2018, I electronically transmitted the attached document to the Clerk's Office using the CM/ECF System for filing and transmittal of a Notice of Electronic Filing to the following ECF registrants:

Ralph E. Ellinwood  
Ralph E. Ellinwood Attorney at Law PLLC  
PO Box 40158  
Tucson, AZ 85717  
*Attorney for Plaintiff*

By: V. Chavarria